HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 16840 OF 2005.

ORAL ORDER:

1 . Writ petition is misconceived. The petitioner was convicted by XXIII Metropolitan Magistrate, City Criminal Courts, Hyderabad, in C.C.No.10 of 1997 of offence under Section 420 I.P.C., while he was acquitted of the other charges. The conviction and sentence were confirmed in Criminal Appeal No.140 of 2000 by the Metropolitan Sessions Judge, Hyderabad. In the revision preferred by the petitioner before this Court in Criminal Revision Case No.298 of 2002, while confirming the conviction, the sentence was reduced to three months for the offence under Section 420 I.P.C., while acquitting the petitioner of the offences he was charged with under the Indian Telegraphic Act. Petitioner thereupon claims to have preferred an application/petition to the Governor of Andhra Pradesh on 26.07.2005 seeking exercise of discretion under Article 161 of the Constitution of India.

2. Pending the exercise of power under Article 161 by the Governor of Andhra Pradesh, the petitioner seeks stay of the orders of conviction and enforcement of the sentence.

3. In the facts and circumstances of the case, this Court finds no warrant or justification for exercise of discretion by the Court for issuing either a Mandamus or an ad-interim Mandamus in respect of the reliefs prayed in this writ petition. The petitioner is liable to undergo the sentence imposed on him qua his conviction recorded by the trial court, affirmed by the Appellate Court and in revision as the serving of the sentence constitutes the enforcement of the rule of law. If and when the power is exercised by the Governor of Andhra Pradesh under Article 161 of the Constitution, the petitioner's circumstances shall follow the exercise of the discretion and the decision of the Governor. As at present, there is no warrant for interdiction of the conviction or sentence. Writ petition is accordingly dismissed at the stage of admission.

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GODA RAGHURAM. J.,

Dated: 08.08.2005.

VRK.

HON'BLE SRI JUSTICE

GODA RAGHURAM

W.P.NO. 16840 OF 2005.

Dt: 08.08.2005.

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